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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/536,836	05/31/2005	Tadayoshi Ito	038440-0124	6495
22428	7590	04/01/2009	EXAMINER	
FOLEY AND LARDNER LLP			NGUYEN, KHAI MINH	
SUITE 500			ART UNIT	PAPER NUMBER
3000 K STREET NW				
WASHINGTON, DC 20007			2617	
MAIL DATE		DELIVERY MODE		
04/01/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

10/536,836

**Applicant(s)**

ITO ET AL.

**Examiner**

KHAI M. NGUYEN

**Art Unit**

2617

**—The MAILING DATE of this communication appears on the cover sheet with the correspondence address —**

THE REPLY FILED 12 March 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1.  The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a)  The period for reply expires \_\_\_\_ months from the mailing date of the final rejection.  
 b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2.  The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3.  The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a)  They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b)  They raise the issue of new matter (see NOTE below);  
 (c)  They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d)  They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4.  The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5.  Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.

6.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7.  For purposes of appeal, the proposed amendment(s): a)  will not be entered, or b)  will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: \_\_\_\_\_

Claim(s) withdrawn from consideration: \_\_\_\_\_

**AFFIDAVIT OR OTHER EVIDENCE**

8.  The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9.  The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fail to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10.  The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11.  The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see below.

12.  Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_

13.  Other: \_\_\_\_\_

/VINCENT P. HARPER/

Supervisory Patent Examiner, Art Unit 2617

The proposed amendment(s) filed after a final rejection, it raise new issues that would require futher consideration and/or search.

Regarding claims 1-12, Applicant argues, on pages 8-9 of the remarks, that Eun in view of Kotani and Stanwood do not disclose, teach, or suggest "(1) reception level obtaining means for obtaining a reception level of said set reception control slot when a link channel establishment request message is received in said set reception control slot, and (2) allocation instructing means for receiving the reception level from each of the base stations, determining the base station of the maximum reception level and transmitting the traffic channel allocation instruction to the determined base station."

The Examiner respectfully disagrees with Applicant's argument because the current claim language is broad enough to be met by Eun in view of Kotani and Stanwood.

Eun in view of Kotani and Stanwood clearly disclose

(1) reception level (see Eun, col.7, lines 11-13, the controller is connected to a maintenance terminal to check a status of the base station) obtaining means for obtaining a reception level corresponding to a received signal strength (check status (level of signals) of the base station (exchanges a signal)) of said set reception control slot (see Eun, vol.4, lines 24-33, example, the physical (PH) layer is responsible for the segmentation of the transmission media into physical channels using TDMA operation on ten carriers between 188 and 1900 MHz with each carrier containing a TDMA structure defined as 24 timeslots per frame of 10 ms for the transmission of data packets. The MAC layer is used to select the physical channels and then establishes or releases connections on those channels. It also multiplexes/demultiplexes control information in slot-sized data packets, col.7, lines 9-22) when a link channel establishment request message is received in said set reception control slot (see Eun, col.7, lines 9-22), and

(2) allocation instructing means for receiving the reception level (status) from each of the base stations (see Eun, col.7, lines 11-13, the controller is connected to a maintenance terminal to check a status of the base station), determining the base station of the maximum reception level (see Stanwood, [0074] the base stations preferably autonomously monitor and learn about the bandwidth requirements of their respective links using a session-based approach. The base stations preferably report results back to their associated cluster controller, [0088]-[0092]) and transmitting the traffic channel allocation instruction to the determined base station (see Stanwood, [0071] controller 162 provides these parameters to the base stations upon system installation. The cluster controller 162 is also preferably provided an initial parameter value based upon the number of expected customers and customer types in a given cluster coverage area).

/Khai M Nguyen/

Examiner, Art Unit 2617